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April 11, 2005

The Committee on Government Efficiency and Openness  
CITY OF SAN DIEGO  
City Administration Building  
202 "C" Street  
San Diego, CA 92101

**Subject: Review of Charter Section 42 – MEMBERSHIP SELECTION – GE&) Agenda  
of April 11, 2005 (Item-3)**

Dear Chair Frye and Members of the Committee:

Thank you for scheduling this item for action. The recent appointments to the Port Commission and Planning Commission have highlighted the shortcomings of the appointment process for boards and commissions.

It is disconcerting that the Mayor and Council (with the exception of Donna Frye) continue to ignore Council Policy 000-13 and Charter Section 42. The latter states the following:

The appointing authority in selecting appointees to commissions, boards, committees or panels shall take into consideration sex, race and geographical area so the membership of such commissions, boards, committees or panels shall reflect the entire community.

Unfortunately, neither the Mayor's memos announcing appointments nor the Council dockets provide the necessary information that would enable the Council to consider whether or not their action would comply with the Charter. And, of course, the public is also left in the dark. In this tumultuous period in which open government is supposedly being stressed, it should not be up to the public to ferret out this pertinent information. As the City Attorney's report concludes, "the Council has the power to decline to confirm appointments that do not, in its opinion, meet the diversity objectives." It is all too evident that this Council simply rolls over and shuns its responsibilities. Too often we hear the statement that "this is a Mayoral appointment."

We need to look at the consequences of this administration's appointments to the Planning Commission. And I'm focusing on the Planning Commission because that's the one I deal with most frequently and because it's clearly one of the most important.

First, let's look at the geographic distribution of the Planning Commissioners. According to the Mayor's office, three of the Planning Commissioners reside in District 5 (Sabre Springs and Scripps Miramar Ranch), two reside in District 3 (Hillcrest and North Park), one resides in District 1 (La Jolla), and one resides in District 2 (Pacific Beach). Four Council Districts (4, 6, 7 and 8) are not represented.

Not only do three Planning Commissioners reside in the neighboring communities of Sabre Springs and Scripps Miramar Ranch but two Planning Commissioners reside in Sabre Springs, which has a population of only 9,971. Compare that with Clairemont's 80,000 residences with no representation.

And historically there has also been a disparity. Between 1973 and 2005 and appointments are as follows:

<u>District</u>	<u>Number of Appointees</u>
1	11
2	15
3	4
4	2
5	5
6	4
7	1
8	1

The last appointment from District 6 was in 1990.

Second, let's look at the composition of the Planning Commission which includes the following:

- 2 architects (Mark Steele and Gil Ontai)
- 2 landscape architects (Kathy Garcia and Dennis Otsuji)
- 1 land use attorney/developer (Barry Schultz)
- 1 real estate manager (Robert Griswold); and
- 1 environmentalist (Carolyn Chase)

Why such a heavy emphasis on design professionals? It is clear that the current commission is strongly weighted on the side of the development/real estate industry. And while they should play a role, it should not be this dominant. As I have stated before, historically there has been representation from one of the community planning committees on the Planning Commission; but currently there is none. Why do this Mayor and Council continue to ignore precedence established in the early 70s by Mayor Pete Wilson and honored by all subsequent Mayors with the exception of Mayor Murphy and the current Council?

A February 15 article entitled "2 Planning Commission Nominees OK'd by Council" quoted Mayor Murphy as saying that "he has sought out committee members in the past, but they

declined” and that “it is a constant struggle to put together what we need to do to have the best and brightest people in these positions.”

For the record, there are 743 current members of the 42 recognized community planning committees in San Diego, and there are even more former members. It is hard to believe that none are qualified, particularly since many of these community volunteers are also professional planners, architects, engineers, and lawyers with extensive experience in planning and land use. For the Mayor to suggest that they are not among the “best and brightest” is a sad commentary on politicizing appointments in San Diego. I am aware of only one former member who was even asked and declined. It must also be noted that the names of at least 4 current or former members of the community planning groups were provided to the Mayor, and he chose to ignore them. And it’s disappointing that no Councilmember, other than Donna Frye, supported the community planning groups.

And what has this appointment process given us? A review of the Planning Commission minutes for the calendar year 2004 provides some interesting insights:

- One Commissioner recused on 24 votes and was also absent for another 12 votes. Based on the items being considered, the Commissioner would have recused on additional votes had he been present.
- Another Commissioner recused on 8 votes but was absent for 42 other votes.

Why is this a problem? Besides illustrating the strong emphasis on development interests, it also presented situations where there were not enough Commissioners to either hear the items or to realistically overturn the approval by staff or the Hearing Officer - and these are often some of the more controversial items that eventually come before the Council such as NTC and projects in Mission Valley. Other speakers will provide you with specific examples.

One other aspect that was very disturbing was when the Mayor pulled the Planning Commission appointment from the docket, presumably because of strong opposition, only to place it back on a supplemental docket a week later. It is clear that “behind the scenes” lobbying was occurring and that the outcome was a foregone conclusion when the item reappeared. Just one more example of why the public is wary of this administration.

I hope that this committee will start us down the path to rectifying this problem and restoring some public confidence in the appointment process.

More specifically, I would hope that the Committee would direct the attorney to prepare an ordinance that includes the following provisions:

- The memo from the Mayor shall include the community and district of the appointee. The same information shall also be provided for the remaining members of the commission/board.
- The memo from the Mayor shall include the occupation of the appointee. The same information shall also be provided for the remaining members of the commission/board.

- The memo from the Mayor shall have the same distribution to the public as the Manager's Reports.
- Preclude "behind the scenes" lobbying of Council offices to support a nomination.
- Make it clear that the Council shall exercise their authority not to confirm an appointment when appropriate.

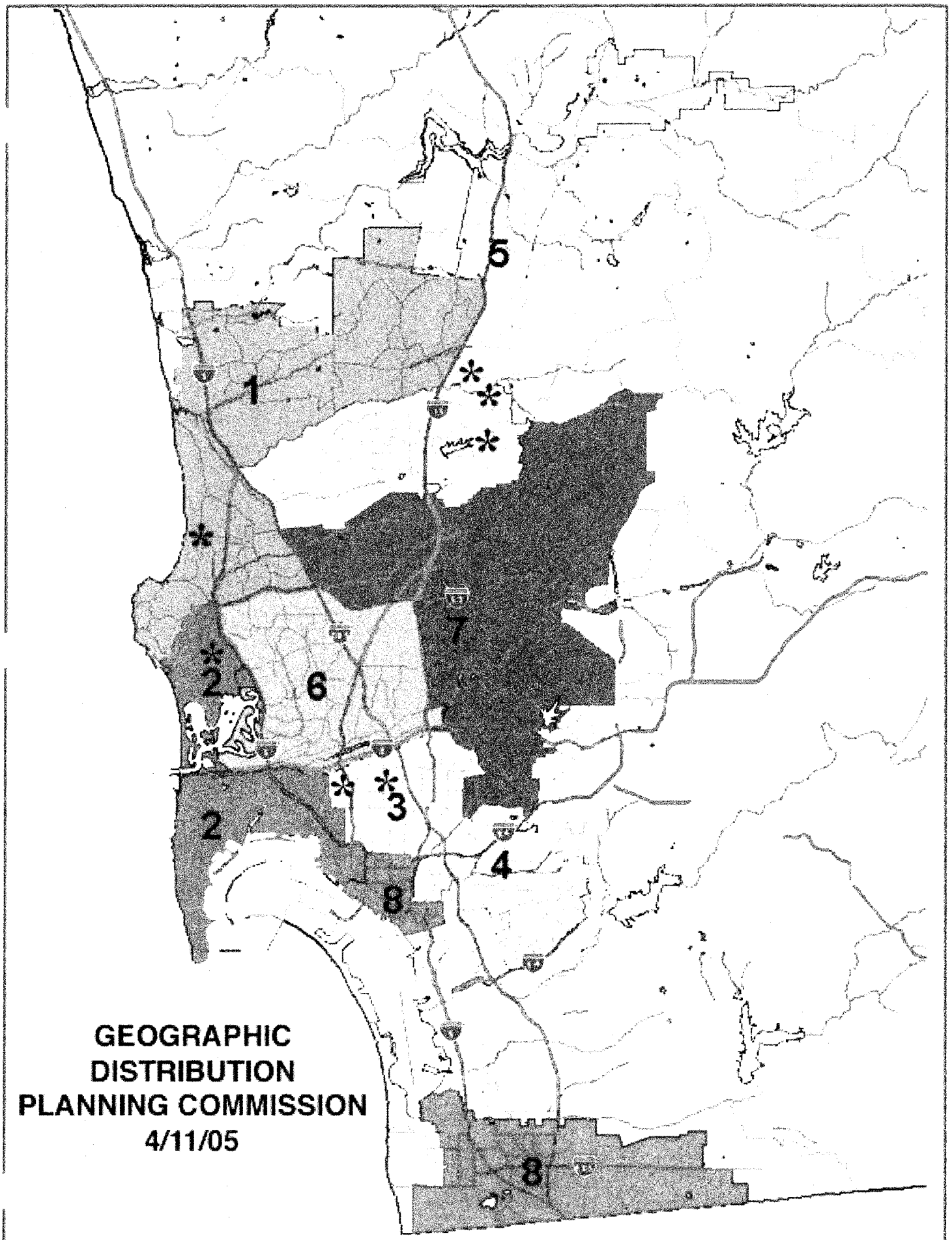
Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be "DA Potter", written in a cursive style.

David A. Potter

Attachment: Geographic Distribution – Planning Commission



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